

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

115

**Civil Revision No.5675 of 2022
Date of Decision: 05th December, 2022**

Jagir Dass

....Revisionist-Petitioner

Versus

Rattan Chand & Others

...Respondents

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present :- Mr. Dheeraj Mahajan, Advocate,
for the revisionist-petitioner.

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MEENAKSHI I. MEHTA, J.(ORAL)

By way of the instant revision-petition, the petitioner-defendant (for short 'defendant') has assailed the order dated 28.03.2022 (Annexure P-2) passed by learned Civil Judge (Junior Division), Gurdaspur (for short, 'the trial Court'), in Civil Suit No.1144 of 2021, whereby his right to defend in the said Suit, has been struck-off on account of non-filing of the written statement by him and he has also laid challenge to the order dated 27.10.2022 (Annexure P-6) handed down by the trial Court, dismissing the application as moved by him with a prayer to recall the order Annexure P-2 and to allow him to file the written statement.

2. I have heard learned counsel for the petitioner-defendant, at the preliminary stage, in the present revision petition and have also perused the file carefully.

3. Though, the defendant has not filed the written statement well in time but however, keeping in view the facts that in case, he is deprived from

filing the same to defend in the said Civil Suit, he would suffer an irreparable loss that may further result in the mis-carriage of justice, this Court is of the considered opinion that it would be in the fitness of the things and the ends of justice will also be best served if he (defendant) is allowed to file his written statement but subject to the payment of cost.

4. Resultantly, without issuing the notice to the respondents-plaintiffs so as to avoid any further delay in the trial of the said Civil Suit and also to avert the expenses that they (respondents-plaintiffs) may have to incur to defend in this petition, the impugned orders Annexures P-2 and P-6 are hereby set-aside and the revision petition in hand is hereby disposed of with a direction to the defendant to file his written statement in the trial Court on 20.12.2022, i.e the next date as stated to have been fixed in the said Civil Suit, but however, the payment of the cost of Rs.7,500/- shall be a condition precedent for doing so and in the eventuality of the default on his part in filing the written statement or the payment of the cost on the afore-said date, he shall not be entitled to any further opportunity for the said purpose.

5. However, it is further clarified that in case the respondents-plaintiffs feel aggrieved by this order, they shall be at liberty to move an appropriate application to contest the instant petition.

05.12.2022
seema

(MEENAKSHI I. MEHTA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>